

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00811R

Parcel No. 171/00360-551-000

Matthew Kellen,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 11, 2015. Matthew Kellen was self-represented and requested his appeal be considered without hearing. Assistant Polk County Attorney Christina Gonzalez represented the Board of Review.

Kellen is the owner of a residential property located at 1301 5th Avenue SE, Altoona. The one-story home, built in 1972, has 988 square feet of above-grade finish; a full basement with 740 square feet of average quality finish; a patio; and a deck. There is also a two-car detached garage, which was built in 1973. The improvements are listed in above-normal condition. The site is 0.286 acres.

The property's January 1, 2015, assessment was \$146,800, allocated as \$33,900 in land value and \$112,900 in improvement value. Kellen's protest to the Board of Review claimed the assessment was not equitable as compared with assessments of other like property and that the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). Kellen also wrote in the area reserved for a claim of change in value, which is an interim year claim. He commented that the basement has had water damage. We find this comment regarding the current condition of the property is part of his claim of over-assessment.

The Board of Review denied the petition.

Kellen appealed to PAAB. Kellen's appeal form asserts the interior of the subject property and the garage are in poor condition; and that there has been serious water damage to the property over the past several years. Kellen makes no statements regarding other properties' assessments as compared to his. Based on the foregoing, we find he has waived his equity claim and only asserts the subject property is over assessed. He believes the property's assessment should be \$133,900.

Findings of Fact

We do not find it necessary to recite or analyze the properties Kellen submitted to the Board of Review for his equity claim because, as previously noted, he did not raise that claim to PAAB.

Kellen did not submit any evidence of the market value of the subject property, such as an appraisal, a cost analysis, or comparable sales adjusted for differences to either the Board of Review or PAAB.

Kellen asserts the subject property and detached garage are in poor condition and suffer from on-going water damage. However, he did not provide any evidence to support this assertion, such as photographs. Moreover, it does not appear he requested the Assessor's Office inspect the subject property to reconsider its above-normal condition rating.

The Board of Review submitted comments and explained that Amy Rasmussen from the Assessor's Office contacted Kellen, and left a message to discuss the condition of the property. Kellen never returned Rasmussen's message. (Ex. A).

The following chart summarizes four properties that were adjusted for differences in cost that the Board of Review relied on in its decision.

Address	Sale Price	Sale Date	Adjusted Sale Price
Subject	N/A	N/A	N/A
1403 4th Ave SE	\$134,000	Jul-14	\$145,600
1204 5th Ave SE	\$129,500	Nov-13	\$132,400
103 12 St SE	\$138,000	May-14	\$153,700
1400 4th Ave SE	\$137,000	Apr-14	\$151,800

All of the properties are one-story homes with 960 square-feet of living area, and built between 1970 and 1972. The subject's assessed value of \$146,800 is within the adjusted range of \$132,400 to \$153,700; and below the median of \$148,700.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Kellen did not submit

any evidence of the property's fair market value, such as an appraisal, a cost analysis, or comparable properties adjusted for differences.

Kellen asserts the subject property is in poor condition and suffers from water damage. However, he provided no evidence of this condition and failed to return messages from the Assessor's Office, which attempted to learn more about the concerns he noted. We urge Kellen to contact the Assessor's Office and request an interior inspection to ensure the condition is properly rated for the next assessment.

For the foregoing reasons, the Board finds that the Kellen failed to show his property is or over-assessed.

Order

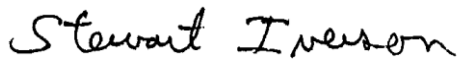
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 11th day of January, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Matthew Kellen

Christina Gonzalez